

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 855 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

ROHITBHAI KISHORBHAI MEHTA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 855 of 2002
- MR PM THAKKAR with MR HARESH N JOSHI for Petitioner No. 1
MR KG SHETH- LD.ADDL.PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 18/02/2002

ORAL JUDGEMENT

#. Rule. Mr.K.G.Sheth, learned APP waives service of rule. By consent this application is heard and disposed of finally.

#. This is an application for enlargement of the petitioner on bail in connection with Navrangpura City Police Station bearing Crime Register No.I-232/2001 said to have been committed by the present petitioner between 13.7.2001 and 30.4.2001. The petitioner is said to have committed the offence punishable under Section 406 and 420 of the I.P.C. It is alleged against the petitioner that he was working as a Senior Manager in the employment of the IDBI Bank, Ahmedabad and he misused his position and issued pay orders and made false entries in the Books of Account of the Bank and credited the amount in the name of his wife - Sonalben and his maternal uncle Bharatbhai Sheth and committed crime of misappropriation for a sum of more than Rs.1 crore. The petitioner contended that he has not committed any offence and he may be enlarged on bail.

#. During the course of hearing it is noticed that the present petitioner was really working as a Senior Manager in the aforesaid bank and there is an allegation of misappropriation of very big amount against him. It is a matter of record that more than Rs.50 lacs have been credited back and the remaining amount is still to be credited, therefore that amount is still in dispute.

#. At the same time, the petitioner is a resident of Ahmedabad City and he is not likely to abscond. His movement can be restricted to the Ahmedabad City only so that he cannot move out of Ahmedabad city without prior permission of the Sessions Court.

#. The petitioner had moved the trial Court by way of Misc. Criminal Application No.1616/2001 wherein the trial Court has considered that in fact the judgement in 2001 Supreme Court Case (Cri.) 642 may be relevant. But in that matter the accused was in judicial custody for more than 5 months and looking to the facts that the present petitioner was released from time to time on bail he had not completed 5 months of custody period and, therefore, it would not be a good case for exercising discretionary power in favour of the petitioner. The order of the trial Court shows that except the aforesaid observation there is no other point on which the application was dismissed.

#. The learned advocate for the petitioner has given details showing the period for which the petitioner remained on bail. On a cumulative effect of the said presentation it is borne out that even if we deduct the period for which the petitioner was enlarged on bail it can be gathered that the petitioner is on bail for about

7 months, as per the say of the learned APP Mr.Sheth.

#. In that view of the matter when the petitioner is in jail for a substantive period of about 7 months and when the 50% of the amount in dispute has been paid back it would not be wrong to exercise jurisdiction and discretion in favour of the petitioner for enlarging him on bail.

#. For the foregoing reasons this application is allowed. The petitioner is ordered to be enlarged on bail on his furnishing P.R. and bail bond in sum a of Rs.50,000/- to the satisfaction of the trial Court on following conditions.

- (a) The petitioner shall not move out of Ahmedabad City without prior permission of the City Sessions Court, Ahmedabad.
- (b) The petitioner shall not contact the prosecution witness for any purpose.
- (c) The petitioner shall not try to tamper or pressurize prosecution witness in any manner.
- (d) The petitioner shall maintain law and order.
- (e) The petitioner shall not take undue advantage of the liberty or abuse his liberty.
- (f) The petitioner shall not induce, threaten or contact the witnesses of the prosecution.
- (g) The petitioner shall report himself to the Police Station concerned on every Monday between 9:00 A.M. to 2:00 P.M. till the commencement of trial against him.

#. Rule is made absolute to the above extent. D.S. is permitted.

(D. P. BUCH, J.)

kks